

REMARKS

Claims 1-21, 24-51 and 53-57 are pending in this application. By this Amendment, claims 1, 24-26, 28, 31, 32 and 38-42 are amended. Claims 52, 56 and 57 are cancelled without prejudice to or disclaimer of the respective subject matter recited therein. Claims 2-21, 24-36, 43 and 53-55 stand withdrawn. Claim 1 is generic to all species. No new matter is added.

Applicants appreciate the courtesies shown to Applicants' representative by Examiner Graham in the October 21, 2003 personal interview. Applicants' separate record of the substance of the interview is incorporated into the following remarks.

I. Allowable Subject Matter

Applicants appreciate the indication of allowable subject matter in claims 41-42 and 44-51, they being allowable if rewritten to overcome the rejection under 35 U.S.C. §112, second paragraph and to include all of the features of base claim and any intervening claims. Applicant asserts that claims 41, 42 and 44-51 are allowable for these reasons discussed above.

II. Claim Rejections Under 35 U.S.C. §112, Second Paragraph

Claims 1, 37-42, 44, 45-51 and 56 are rejected under 35 U.S.C. §112, second paragraph. As claim 56 is cancelled, the rejection of that claim is moot. The rejection is respectfully traversed.

The Office Action alleges that claim 1 is indefinite for recitation of "while said vehicle is placed in a normal state". Claims 37-42, 44, 45-51 and 56 are alleged to be indefinite due to their dependency on claim 1. As claim 1 is amended in reply to the rejection, Applicants respectfully request the rejection be withdrawn.

III. Claim Rejections Under 35 U.S.C. §102

Claims 1, 37-40, 44, 52 and 56 are rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,315,371 to Wachi et al. (Wachi). As claims 52 and 56 are canceled, the rejection of those claims is moot. Applicants respectfully traverse the rejection of claims 1, 37-40 and 44.

As discussed and agreed during the personal interview, a listing of running conditions has been included in amended claim 1 by the incorporation of the subject matter previously recited in claim 57. As discussed and agreed during the interview, amended 1 distinguishes over the references of record.

Additionally, as discussed during the personal interview, Applicants assert that Wachi does not disclose a braking pressure control apparatus for controlling a pressure of a working fluid in a brake cylinder of a hydraulically operated brake in a hydraulically braking system for a vehicle, the braking pressure control apparatus comprising . . . at least one of (a) a change restricting means operable upon a switching of the braking system between the first and second operating states by the switching device, to restrict at least one of a change of an operating state of the brake operating member and a change of the fluid pressure in the brake cylinder, which changes take place due to the switching, and (b) a switching control device operable to control the switching device on the basis of a running condition of the vehicle.

Wachi discloses a braking system including a first hydraulic pressure source 13, 14 having a pump 14 and a second hydraulic pressure source having a master cylinder 3, wherein the braking system is normally operated in a first operating state in which the brake cylinder 9-11 is operated with pressurized fluid from the first hydraulic pressure source, and is operated in a second operating state in the event of a failure of the first hydraulic pressure source (col. 6, lines 13-56). In the second operating state, the brake cylinder is operated with the pressurized fluid delivered from the second hydraulic pressure source (col. 11,

lines 16-25). Thus, Wachi discloses switching from a first hydraulic source to a second hydraulic source in the event of a failure of the first hydraulic source and not on the basis of a running condition of the vehicle as the term is used and clearly defined throughout the specification.

During Patent examination, the claims are given the broadest reasonable interpretation consistent with the specification (MPEP §904.01). The words of a claim must be given their plain meaning unless they are defined in the specification (MPEP §2111.01).

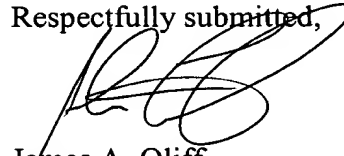
Applicants assert that Wachi does not disclose or suggest a vehicle running condition as clearly defined in the specification. For example, Wachi does not disclose the running condition of a vehicle to include "a slipping state of the wheel, and a yaw rate, a steering angle, a running speed, an acceleration value (deceleration value) of the vehicle. The running condition further includes a running environment of the vehicle, and operating states of various manually operated members, as well as the operating state of various components of the vehicle and the vehicle load (page 48, line 7 through page 49, line 2). Accordingly, Wachi does not disclose each and every feature recited in the rejected claims. Thus, Applicants respectfully request the rejection of claims 1, 37-40, 44 and 52 under 35 U.S.C. §102(e) be withdrawn.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 37-40 and 44 are earnestly solicited. Additionally, as generic claim 1 is in condition for allowance, reconsideration and prompt allowance of withdrawn claims 2-21, 24-36, 43 and 53-55 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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